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**REMARKS**

Claims 1-85 are currently pending in the subject application and are presently under consideration. Claims 1, 13, 23, 25, 40-41, 55 and 78 have been amended as shown at pp. 2-13 of the Reply.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

**I. Rejection of Claim 13 Under 35 U.S.C §112**

Claim 13 stands rejected under 35 U.S.C §112, first paragraph, as failing to comply with the enablement requirement. Claim 13 recites the limitation of "the amount of messages sent to the device" in lines 1-2. The Office Action asserts that there is insufficient antecedent basis for this limitation in the claim. Claim 13 has been amended to cure any deficiencies related to this rejection. Accordingly, withdrawal of this rejection is respectfully requested.

**II. Provisional Rejection of Claims 23-36**

Claims 23-36 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 34-44 and 52-54 of co-pending Application No. 10/220,550. Withdrawal of this rejection is requested in view of the Terminal Disclaimer filed herewith.

**III. Rejection of Claims 1, 2, 4, 5, 9, 10, 19, 22 and 40 Under 35 U.S.C. §102(e)**

Claims 1, 2, 4, 5, 9, 10, 19, 22 and 40 stand rejected under 35 U.S.C. §102(e) as being anticipated by Smith, *et al.*, (US 6,463,462 B1). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Smith, *et al.* does not teach each and every element of the subject invention as recited in the subject claims.

A single prior art reference anticipates a patent claim only if it expressly or inherently describes each and every limitation set forth in the patent claim. *Trintec Industries, Inc., v. Top-U.S.A. Corp.*, 295 F.3d 1292, 63 U.S.P.Q.2D 1597 (Fed. Cir. 2002); *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the ...

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claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

The subject invention relates to providing controls and displays for acquiring user preferences for a system and method to automatically classify, prioritizing, and present information to a user or system in a preferred format, location, and time. For example the system can examine properties of the message to determine the appropriate priority to assign to the message based on the user preferences. In particular, independent claim 1 (and similarly independent claim 40) recites *the one or more inputs includes at least one or more user preferences for assigning a priority value to a voice message based at least in part on acoustical properties of the voice message*. Applicants' claimed invention can examine acoustical properties of the voice message, such as pitch, rate, inflections, etc. in making a determination of the priority to assign to the message.

Smith, *et al.* does not teach or suggest the aforementioned novel aspects of applicants' invention as recited in the subject claims. Smith, *et al.* teaches a messaging system that can receive and send messages from multiple formats by converting the messages into a universal format. Smith, *et al.* provides a method for a user to establish profiles that can determine priority based on various factors. However, Smith, *et al.* fails to teach or suggest that one of those factors is the acoustical properties of a voice message. Therefore, Smith, *et al.* fails to teach or suggest the one or more inputs includes at least one or more user preferences for assigning a priority value to a voice message based at least in part on acoustical properties of the voice message.

Accordingly, applicants' representative respectfully submits that Smith, *et al.* fails to teach or suggest all limitations of applicants' invention as recited in independent claims 1 and 40 (and claims 2, 4, 5, 9, 10, 19, 22 that depend there from), and thus fails to make obvious the subject claimed invention. Therefore, it is readily apparent that this rejection should be withdrawn.

#### **IV. Rejection of Claims 23-26 and 34-39 Under 35 U.S.C. §102(b)**

Claims 23-26 and 34-39 stand rejected under 35 U.S.C. §102(b) as being anticipated by Robert M. Losee, Jr. (Minimizing Information Overload: The Ranking of Electronic Messages),

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hereinafter referred to as Losee. It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Losee does not teach each and every element of the subject invention as recited in the subject claims.

Independent claim 23 recites *determining an expected loss of non-review of the message at a current time based at least on ... an expected rate of lost opportunity for the user resulting from non-review of the message as a function of time*. Losee does not teach or suggest the aforementioned novel aspects of applicants' invention as recited in the subject claim. Losee teaches a system for ranking messages that determines the expected cost of rejecting a message. However contrary to assertions in the Office Action, Losee fails to teach or suggest an expected rate of lost opportunity for the user resulting from non-review of the message as a function of time. The section of prior art referenced in the Office Action describes a decision criteria for determining if a message should be examined that is based on the cost of rejecting a message exceeding the cost of selecting a message. Losee teaches that the cost of rejecting a message is based on the cost of rejection given a relevance class(priority). The applicants' claimed invention teaches a rate of lost opportunity, which is a cost per unit of time that can be linear or non-linear. Losee fails to factor in time. Therefore, Losee fails to teach or suggest determining an expected loss of non-review of the message at a current time based at least on ... an expected rate of lost opportunity for the user resulting from non-review of the message as a function of time.

Accordingly, applicants' representative respectfully submits that Losee fails to teach or suggest all limitations of applicants' invention as recited in independent claim 23 (and claims 24-26 and 34-39 that depend there from), and thus fails to make obvious the subject claimed invention. Therefore, it is readily apparent that this rejection should be withdrawn.

**V. Rejection of Claims 41-51 Under 35 U.S.C. §102(b)**

Claims 41-51 stand rejected under 35 U.S.C. §102(b) as being anticipated by Juha Takkinen (CAFE: A Conceptual Model for Managing Information in Electronic Mail). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Takkinen does not teach each and every element of the subject invention as recited in the subject claims.

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Independent claim 41 recites *wherein a voice message is assigned a priority value based at least in part on acoustical properties of the voice message*. Takkinen does not teach or suggest the aforementioned novel aspects of applicants' invention as recited in the subject claim. Takkinen teaches a categorization system for e-mail that has three user modes of operation employing three different categorization techniques based upon how busy the user indicates they are currently. However, Takkinen is strictly concerned with e-mail and therefore fails to teach or suggest that the categorization techniques take into account acoustical properties of voice messages in determining a priority.

Accordingly, applicants' representative respectfully submits that Takkinen fails to teach or suggest all limitations of applicants' invention as recited in independent claim 41 (and claims 42-51 that depend there from), and thus fails to make obvious the subject claimed invention. Therefore, it is readily apparent that this rejection should be withdrawn.

**VI. Rejection of Claims 55-64, 66-71 and 74-85 Under 35 U.S.C. §102(e)**

Claims 55-64, 66-71 and 74-85 stand rejected under 35 U.S.C. §102(e) as being anticipated by Jonathan Isaac Abu-Hakima (US 6,499,021 B1). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Abu-Hakima does not teach each and every element of the subject invention as recited in the subject claims.

Independent claim 55 (and similarly recited in independent claim 78) recites *wherein a voice message is assigned a priority based at least in part on acoustical properties of the voice message*. Abu-Hakima does not teach or suggest the aforementioned novel aspects of applicants' invention as recited in the subject claim. Abu-Hakima teaches a system prioritizing messages from various sources, such as e-mail, fax, phone, etc. based on attributes of the message and then forwarding messages to a user based on the priority. However, Abu-Hakima fails to teach or suggest that one of those attributes is the acoustical properties of a voice message. Therefore, Abu-Hakima fails to teach or suggest wherein a voice message is assigned a priority based at least in part on acoustical properties of the voice message.

Accordingly, applicants' representative respectfully submits that Abu-Hakima fails to teach or suggest all limitations of applicants' invention as recited in independent claims 55 and 78 (and claims 56-64, 66-71, 74-77, and 79-85 that depend therefrom), and thus fails to make

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obvious the subject claimed invention. Therefore, it is readily apparent that this rejection should be withdrawn.

**VII. Rejection of Claim 3 Under 35 U.S.C. §103(a)**

Claim 3 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Smith, *et al.*, (US 6,463,462 B1), as applied to claim 2 above, and further in view of Anderlind, *et al.*, (US 6,781,972 B1). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Smith, *et al.* in further view of Anderlind, *et al.* fails to teach or suggest each and every limitation of applicants' claimed invention.

To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. See MPEP §706.02(j). The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. See *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

The subject claim depends from independent claim 1. As noted *supra*, Smith, *et al.* does not teach or suggest each and every element of the subject invention as recited in independent claim 1, and Anderlind, *et al.* fails to make up for the aforementioned deficiencies of Smith, *et al.* Anderlind, *et al.* teaches a system and method creating profiles to control delivery of messages to a mobile communications device. Anderlind, *et al.* teaches controlling of message priority, however, Anderlind, *et al.* fails to teach or suggest that priority for a voice message is based upon the acoustical properties of a voice message.

Accordingly, applicants' representative respectfully submits that Smith, *et al.* and Anderlind, *et al.*, alone or in combination, fail to teach or suggest all limitations of applicants'

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invention as recited in claim 3. Therefore, it is readily apparent that this rejection should be withdrawn.

**VIII. Rejection of Claims 6, 13 and 21 Under 35 U.S.C. §103(a)**

Claims 6, 13 and 21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Smith, *et al.*, (US 6,463,462 B1), as applied to claims 1, 4 and 19 above, and further in view of Wright, *et al.*, (US 6,078,568 A). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Smith, *et al.* in further view of Wright, *et al.* fails to teach or suggest each and every limitation of applicants' claimed invention.

The subject claims depend from independent claim 1. As noted *supra*, Smith, *et al.* does not teach or suggest each and every element of the subject invention as recited in independent claim 1, and Wright, *et al.* fails to make up for the aforementioned deficiencies of Smith, *et al.* Wright, *et al.* teaches a system for managing data packets on a communication network and does not discuss assignment of message priority. Therefore, Wright, *et al.* fails to teach or suggest that priority for a voice message is based upon the acoustical properties of a voice message.

Accordingly, applicants' representative respectfully submits that Smith, *et al.* and Wright, *et al.*, alone or in combination, fail to teach or suggest all limitations of applicants' invention as recited in claims 6, 13, and 21. Therefore, it is readily apparent that this rejection should be withdrawn.

**IX. Rejection of Claims 7 and 8 Under 35 U.S.C. §103(a)**

Claims 7 and 8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Smith, *et al.*, (US 6,463,462 B1), as applied to claim 2 above, and further in view of Cooper, *et al.*, (US 6,757,362 A). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Smith, *et al.* in further view of Cooper, *et al.* fails to teach or suggest each and every limitation of applicants' claimed invention.

The subject claims depend from independent claim 1. As noted *supra*, Smith, *et al.* does not teach or suggest each and every element of the subject invention as recited in independent claim 1, and Cooper, *et al.* fails to make up for the aforementioned deficiencies of Smith, *et al.* Cooper, *et al.* teaches a system for inputting and receiving information such as e-mail and news by speech. Cooper, *et al.* teaches analysis of acoustical properties of the speech of a user that

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retrieving messages for the purpose of identifying the emotional state of the user, so that adjustments can be made in the system voice prompts to be more in line with the user's emotional state. Cooper, *et al.* does not teach or suggest analyzing acoustical properties of messages that the user is receiving or sending. Furthermore, Cooper, *et al.* does not teach or suggest a system for assigning priorities to messages and therefore also fails to teach or suggest using an acoustical analysis to assign priorities to voice messages.

Accordingly, applicants' representative respectfully submits that Smith, *et al.* and Cooper, *et al.*, alone or in combination, fail to teach or suggest all limitations of applicants' invention as recited in claims 7 and 8. Therefore, it is readily apparent that this rejection should be withdrawn.

**X. Rejection of Claim 11 Under 35 U.S.C. §103(a)**

Claim 11 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Smith, *et al.*, (US 6,463,462 B1), as applied to claim 1 above, and further in view of Matthew Marx (CLUES: Dynamic Personalized Message Filtering). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Smith, *et al.* in further view of Marx fails to teach or suggest each and every limitation of applicants' claimed invention.

The subject claims depend from independent claim 1. As noted *supra*, Smith, *et al.* does not teach or suggest each and every element of the subject invention as recited in independent claim 1, and Marx fails to make up for the aforementioned deficiencies of Smith, *et al.* Marx teaches a prioritization system for e-mail and phone calls based on rules that are automatically generated by the system. However, Marx fails to teach or suggest that priority for a voice message is based upon the acoustical properties of a voice message.

Accordingly, applicants' representative respectfully submits that Smith, *et al.* and Marx, alone or in combination, fail to teach or suggest all limitations of applicants' invention as recited in claim 11. Therefore, it is readily apparent that this rejection should be withdrawn.

**XI. Rejection of Claims 12 and 20 Under 35 U.S.C. §103(a)**

Claims 12 and 20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Smith, *et al.*, (US 6,463,462 B1), as applied to claims 1 and 19 above, and further in view of Eggleston, *et al.* (US 6,101,531 A). It is respectfully submitted that this rejection should be

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withdrawn for at least the following reasons. Smith, *et al.* in further view of Eggleston, *et al.* fails to teach or suggest each and every limitation of applicants' claimed invention.

The subject claims depend from independent claim 1. As noted *supra*, Smith, *et al.* does not teach or suggest each and every element of the subject invention as recited in independent claim 1, and Eggleston, *et al.* fails to make up for the aforementioned deficiencies of Smith, *et al.* Eggleston, *et al.* teaches a system and method for prioritizing e-mail to be downloaded from a server to a local machine. However, Eggleston, *et al.* is strictly concerned with e-mail and therefore fails to teach or suggest that priority for a voice message is based upon the acoustical properties of a voice message.

Accordingly, applicants' representative respectfully submits that Smith, *et al.* and Eggleston, *et al.*, alone or in combination, fail to teach or suggest all limitations of applicants' invention as recited in claims 12 and 20. Therefore, it is readily apparent that this rejection should be withdrawn.

## **XII. Rejection of Claim 14 Under 35 U.S.C. §103(a)**

Claim 14 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Smith, *et al.*, (US 6,463,462 B1), as applied to claim 1 above, and further in view of Jonathan Isaac Helfman, *et al.* (Ishmail: Immediate Identification of Important Information). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Smith, *et al.* in further view of Helfman, *et al.* fails to teach or suggest each and every limitation of applicants' claimed invention.

The subject claims depend from independent claim 1. As noted *supra*, Smith, *et al.* does not teach or suggest each and every element of the subject invention as recited in independent claim 1, and Helfman, *et al.* fails to make up for the aforementioned deficiencies of Smith, *et al.* Helfman, *et al.* teaches a prioritization system for e-mail based upon keyword based filter rules. However, Helfman, *et al.* is strictly concerned with e-mail and therefore fails to teach or suggest that priority for a voice message is based upon the acoustical properties of a voice message.

Accordingly, applicants' representative respectfully submits that Smith, *et al.* and Helfman, *et al.*, alone or in combination, fail to teach or suggest all limitations of applicants' invention as recited in claim 14. Therefore, it is readily apparent that this rejection should be withdrawn.



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**XIII. Rejection of Claims 15-18 Under 35 U.S.C. §103(a)**

Claims 15-18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Smith, *et al.*, (US 6,463,462 B1), as applied to claim 1 above, and further in view of Jonathan Isaac Abu-Hakima (US 6,499,021 B1). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Smith, *et al.* in further view of Abu-Hakima fails to teach or suggest each and every limitation of applicants' claimed invention.

The subject claims depend from independent claim 1. As noted *supra*, Smith, *et al.* does not teach or suggest each and every element of the subject invention as recited in independent claim 1, and Abu-Hakima fails to make up for the aforementioned deficiencies of Smith, *et al.* as discussed above with respect to the similar limitations recited in independent claims 55 and 78.

Accordingly, applicants' representative respectfully submits that Smith, *et al.* and Abu-Hakima, alone or in combination, fail to teach or suggest all limitations of applicants' invention as recited in claim 14. Therefore, it is readily apparent that this rejection should be withdrawn.

**XIV. Rejection of Claims 27-33 Under 35 U.S.C. §103(a)**

Claims 27-33 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Robert M. Losee, Jr. (Minimizing Information Overload: The Ranking of Electronic Messages), hereinafter referred to as Losee, as applied to claim 23 above, and further in view of Eggleston, *et al.* (US 6,101,531 A). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Losee in further view of Eggleston fails to teach or suggest each and every limitation of applicants' claimed invention.

The subject claims depend from independent claim 23. As noted *supra*, Losee does not teach or suggest each and every element of the subject invention as recited in independent claim 23, and Eggleston fails to make up for the aforementioned deficiencies of Losee. Eggleston, *et al.* does not teach or suggest any cost benefit analysis associated with message review, and therefore fails to teach or suggest determining an expected loss of non-review of the message at a current time based at least on ... an expected rate of lost opportunity for the user resulting from non-review of the message as a function of time.

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Accordingly, applicants' representative respectfully submits that Losee and Eggleston, *et al.*, alone or in combination, fail to teach or suggest all limitations of applicants' invention as recited in claims 27-33. Therefore, it is readily apparent that this rejection should be withdrawn.

**XV. Rejection of Claims 52-54 Under 35 U.S.C. §103(a)**

Claims 52-54 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Juha Takkinen (CAFE: A Conceptual Model for Managing Information in Electronic Mail), as applied to claim 41 above, and further in view of Jonathan Isaac Abu-Hakima (US 6,499,021 B1). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Smith, *et al.* in further view of Abu-Hakima fails to teach or suggest each and every limitation of applicants' claimed invention.

The subject claims depend from independent claim 41. As noted *supra*, Takkinen does not teach or suggest each and every element of the subject invention as recited in independent claim 41, and Abu-Hakima fails to make up for the aforementioned deficiencies of Takkinen as discussed above with respect to the similar limitations recited in independent claims 55 and 78.

Accordingly, applicants' representative respectfully submits that Takkinen and Abu-Hakima, alone or in combination, fail to teach or suggest all limitations of applicants' invention as recited in claims 52-54. Therefore, it is readily apparent that this rejection should be withdrawn.

**XVI. Rejection of Claim 65 Under 35 U.S.C. §103(a)**

Claim 65 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Jonathan Isaac Abu-Hakima (US 6,499,021 B1), as applied to claim 64 above, and further in view of Wright, *et al.*, (US 6,078,568 A). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Abu-Hakima in further view of Wright, *et al.* fails to teach or suggest each and every limitation of applicants' claimed invention.

The subject claims depend from independent claim 55. As noted *supra*, Abu-Hakima does not teach or suggest each and every element of the subject invention as recited in independent claim 55, and Wright, *et al.* fails to make up for the aforementioned deficiencies of Abu-Hakima. Wright, *et al.* teaches a system for managing data packets on a communication network and does not discuss assignment of message priority. Therefore, Wright, *et al.* fails to

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teach or suggest that priority for a voice message is based upon the acoustical properties of a voice message.

Accordingly, applicants' representative respectfully submits that Abu-Hakima and Wright, *et al.*, alone or in combination, fail to teach or suggest all limitations of applicants' invention as recited in claim 65. Therefore, it is readily apparent that this rejection should be withdrawn.

**XVII. Rejection of Claims 72 and 73 Under 35 U.S.C. §103(a)**

Claims 72 and 73 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Jonathan Isaac Abu-Hakima (US 6,499,021 B1), as applied to claim 64 above, and further in view of Eggleston, *et al.* (US 6,101,531 A). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Abu-Hakima in further view of Wright, *et al.* fails to teach or suggest each and every limitation of applicants' claimed invention.

The subject claims depend from independent claim 55. As noted *supra*, Abu-Hakima does not teach or suggest each and every element of the subject invention as recited in independent claim 55, and Eggleston, *et al.* fails to make up for the aforementioned deficiencies of Abu-Hakima. Eggleston, *et al.* teaches a system and method for prioritizing e-mail to be downloaded from a server to a local machine. However, Eggleston, *et al.* is strictly concerned with e-mail and therefore fails to teach or suggest that priority for a voice message is based upon the acoustical properties of a voice message.

Accordingly, applicants' representative respectfully submits that Abu-Hakima and Eggleston, *et al.*, alone or in combination, fail to teach or suggest all limitations of applicants' invention as recited in claims 72 and 73. Therefore, it is readily apparent that this rejection should be withdrawn.

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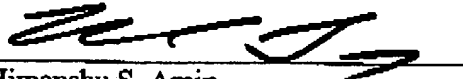
The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [MSFTP225USA].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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